

VZCZCXRO2009
PP RUEHPA
DE RUEHDK #0181/01 0251743
ZNY CCCCC ZZH
P 251743Z JAN 06
FM AMEMBASSY DAKAR
TO RUEHC/SECSTATE WASHDC PRIORITY 4026
INFO RUEHZK/ECOWAS COLLECTIVE PRIORITY

C O N F I D E N T I A L SECTION 01 OF 02 DAKAR 000181

SIPDIS

SIPDIS

STATE FOR AF/W, AF/RSA, DRL/PHD AND INR/AA
PARIS FOR POL - D'ELIA

E.O. 12958: DECL: 01/25/2016
TAGS: [PHUM](#) [PGOV](#) [KDEM](#) [KJUS](#) [SG](#)
SUBJECT: SECK CASE: DOES WADE NOW FEAR A TRIAL?

REF: A. DAKAR 0081

[1](#)B. 05 DAKAR 2509

Classified By: CDA ROBERT P. JACKSON FOR REASONS 1.4 (B) AND (D).

SUMMARY

[1](#)1. (C) Six months after his arrest, former Prime Minister Idrissa Seck is still in pre-trial detention. However, on January 24, the Government acted on a judge's recommendation to drop the most serious charge against Seck, that of being a threat to national security. This could pave the way for his release from prison, pending trial on the original corruption/embezzlement of public funds charges and a more recent charge of irregular correspondence.⁸ Under Senegalese law, he can remain in jail for as long as investigators deem it necessary. All those charged with him have benefited from conditional release. In the embezzlement case, co-accused former Minister of Construction Salif Ba, was detained in a local hospital until his provisional release on January 18. Seck, meanwhile, is detained in Dakar's main prison under more severe conditions. Many sources close to the cases indicate the GOS has very slim evidence against him, which prevents the staging of trials. Wade's recent talks with Seck's closest ally and reports in the press indicate he may be looking for a political solution. Seck's American attorney has told EmbOffs that the government's willingness to negotiate a sentence highlights the judiciary's lack of independence. END SUMMARY.

LAST CO-ACCUSED RELEASED

[1](#)2. (U) In December, Coumba Ngouye Thiam, the police inspector who was arrested and charged with complicity in the Seck affair, was granted provisional release for medical reasons. Thiam, it has been reported, suffers from severe asthma. On January 20, all charges against her were dropped. After businessman Hassan Fares and journalist Ndary Gueye were granted conditional release in August 2005 and Inspector Thiam in December, Seck remained the only defendant in jail.

DOUBLE STANDARDS

[1](#)3. (SBU) During one session in December, investigation judges interrogated Seck for eight hours. Apparently, however, they cannot yet establish his direct responsibility in the Thies Public Works embezzlement case. In one of the many paradoxes of the Seck case, Bara Tall, Director General of the road company Jean Lefevre was interrogated by the judge in relation to the case, but recently won a multi-million dollar project to construct the first portion of a 50-mile highway between Dakar and Thies.

ARGUMENTS DO NOT HOLD WATER

¶4. (C) Many claim that Senior Minister of Finance Abdoulaye Diop and several high-ranking civil servants responsible for approving GOS procurements bear more blame than Seck. The charges filed against Seck are based on a resolution passed in the National Assembly. One Accounting Court judge pointed to flaws in the resolution to show that others should bear a larger share of the blame. First, Seck is accused in the resolution of authorizing procurements when he had no authority to do so. According to the resolution, he authorized certain procurements after procurement powers had been transferred to the Minister of Finance. Close scrutiny shows, however, the procedure used to transfer powers to the Minister of Finance had not yet been completed when Seck made these authorizations. Seck still held procurement power. Thus, there was no basis to this first charge. The judge wondered openly how such a glaring error could escape Seck's lawyers.

¶5. (C) Second, the judge said the resolution improperly accused Seck, as Prime Minister at the time, of being responsible for the fact that companies selected to implement the public works in Thies over-billed the GOS. Under West African Economic and Monetary Union (WAEMU) laws and regulations (which are binding on Senegal), Prime Ministers are not responsible for public funds and budgetary issues. Ministers of Finance are responsible. Therefore, if it is true that companies over-billed the GOS, Seck, as Prime Minister, would not have been responsible. The Minister of Finance would have been at fault.

WADE CALLS FOR POLITICAL DIALOGUE

¶6. (C) Two weeks ago, President Wade invited Pape Diouf, former Cabinet Minister and close Seck ally to a meeting at

DAKAR 00000181 002 OF 002

the Presidential Palace, the first time Wade has openly initiated dialogue with Seck's group. A deputy close to Seck told PolOff that Wade made no commitment but showed openness for dialogue. This past weekend, media reported that Wade told Codel Kolbe he believed Seck was not guilty of being a threat to state security (Ref A). The press also reported that Wade delivered this same message to the PDS.

¶7. (C) Seck's American attorney has told EmbOffs that the Government's willingness to negotiate a sentence highlights the judiciary's lack of independence.

COMMENT

¶8. (C) Seck is still a dilemma for Wade, who cannot let the court free him for lack of evidence without losing face. On the other hand, prosecution might well give a platform to Seck to unveil secrets that would undermine Wade's authority.

A political solution rubber-stamped by the court seems to be Wade's strategy. Seck has always indicated he has "invested" in PDS, and his main goal, by all accounts, remains using the PDS to conquer the presidency. Now, Seck's concern is to keep his credibility intact after public accusations of mismanagement. However, recent media reports attributed to certain PDS leaders indicate that Seck would never be allowed to return, much less, lead the party. Recent constitutional changes, such as coupling the legislative and presidential elections in February 2007 and possible adoption of a first-pass-the-post system in the 2007 presidential elections, also increase pressure on Seck's camp to carefully reconsider any temptation it may have for an alliance with the opposition. END COMMENT.

JACKSON